

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Advanced Television Systems ) MM Docket No. 87-268  
and Their Impact Upon the )  
Existing Television Broadcast Service )

To: The Commission

**COMMENTS OF WMTW HOLDINGS, INC.**

WMTW Holdings, Inc. ("Holdings"), the licensee of WMTW-TV, Channel 8 (DTV Channel 46), Poland Spring, Maine ("WMTW" or the "Station"), by its attorneys, hereby submits its Comments responding to Public Notice, FCC Seeks Comment on Filings Addressing Digital TV Allotments, released December 2, 1997, in the above-captioned proceeding.

On December 2, 1997, the Commission requested comments in response to the respective ex parte filings of Association for Maximum Service Broadcasters, Inc. ("MSTV") and Association of Local Television Stations, Inc. ("ALTV"), each of which addressed the DTV Table of Allotments ("Table") proposed by the Commission in the Sixth Report and Order, FCC 97-115 (released April 21, 1997) ("Sixth Report and Order"). Specifically, MSTV proposes an alternate Table of Allotments, making 357 changes to the Commission's Table. However, both the Commission's Table and MSTV's alternate proposal neglect to account for a proposed modification of WMTW's transmitter site, which has been on file with the

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Commission since April 22, 1996. See File No. BPCT-96-0422KE. Both the Commission and MSTV should amend their DTV Tables to include the proposed modification.

**I. BOTH THE COMMISSION AND MSTV SHOULD CORRECT WMTW'S DTV ALLOTMENT TO ACCOUNT FOR THE PROPOSED MODIFICATION OF ITS TRANSMITTER SITE.**

Since April 1996, WMTW has anticipated moving its transmitter site from Mount Washington to a new site at North Latitude 43°-50'-33" and West Longitude 70°-45'-22." The new site, which would be closer to the Station's community of license and the greater Portland, Maine area, would eliminate environmental risks and better serve WMTW's viewership. It is undisputed that the modification -- which was timely filed with the Commission three months before the release of the Sixth Further Notice of Proposed Rulemaking and a year before the Sixth Report and Order -- would render substantial benefits to the areas served by WMTW.

**A. The Modification, If Implemented Within the Table of DTV Allotments, Would Benefit the Communities Served by WMTW.**

**1. The Modification Would Eliminate Risks to the Environment and Operation of WMTW Posed By The Existing Transmitter Site.**

As Holdings demonstrated previously in its Petition for Reconsideration of the Sixth Report and Order in this proceeding, several factors beyond Holdings' control compel moving WMTW's transmission facilities to the proposed site. First, the parcel of land upon which WMTW's transmitter is located is owned by Dartmouth College and leased by Holdings from Dartmouth.

Dartmouth has sold adjoining properties formerly owned by it to the State of New Hampshire and has granted the State an option to purchase the remaining parcel, on which WMTW's facilities are located, upon the expiration of Holdings' lease in 2010.

Moreover, there has been growing contention in recent years regarding the aesthetics of the area surrounding the summit of Mount Washington. Mountain and environmental organizations, the Mount Washington Commission and various New Hampshire state government officials have all vigorously advocated the removal of all structures from the mountain in order to allow the summit to revert to nature. In addition, there has been significant public resistance to the siting of any new structures on the summit, which would be necessary in order to construct a WMTW digital facility and the associated electricity and fuel storage needs of such a facility.

WMTW currently has two towers at its Mount Washington site -- a main tower and antenna and a standby tower and antenna. In order to construct a DTV facility at the current site, either a new, third tower would have to be constructed or the Station's existing standby tower would have to be refitted to accommodate the DTV facility. Under the latter plan, however, WMTW would be forced to function during the DTV transition period without a backup antenna for either its NTSC or its DTV service. Given the severity of the weather on Mount Washington and the inaccessibility of the existing site, operating without a backup antenna would be imprudent and would pose unacceptable risks. Accordingly, a new tower and antenna array providing backup capability for the NTSC and DTV

facilities would be required during the transition period while WMTW converts to DTV.

A third reason compelling relocation of WMTW is the lack of electric service on Mount Washington. Power at the Mount Washington summit is provided by diesel-fired generators. The Air Resources Division of the State of New Hampshire has authorized Holdings to operate twin diesel generator sets, only one of which is allowed on line at a time. Holdings estimates that the addition of a DTV transmitter to WMTW's power load would result in a 44 percent increase over the Station's current power consumption, raising demand on the on-line generator to a level approaching its rated maximum capacity. The addition of digital facilities will therefore necessitate replacement of WMTW's existing generating plant with larger units, which would in turn subject the Station to a state permitting process, the outcome of which would be impossible to predict.

Fourth, fuel storage on Mount Washington poses substantial practical difficulties. WMTW's diesel generators are fueled by five 20,000 gallon tanks located at the summit. The tanks are filled during the three summer months at the summit and topped off just before winter. Based on WMTW's current annual fuel consumption (for both power generation and heating) of approximately 98,000 gallons, Holdings estimates that the operation of a DTV transmitter during the transition period would require more than 36,000 additional gallons of fuel per year, well beyond the capacity of the current tank system. In order to avoid depleting the fuel supply before the road to the summit is open to replenish the fuel

tanks in the spring, additional fuel storage capacities would be required at the current WMTW site.

Specifically, based on the projected fuel consumption discussed above, the construction of two additional 20,000 gallon tanks, piping and an associated containment berm would be necessary. Construction of these facilities would be a difficult and complex undertaking due to the physical size of the tanks and the associated structures. Construction costs on the summit are particularly high, due to limited access to the summit and public hostility based on environmental concerns. Given current public sentiment, expansion of the tank farm would likely face significant opposition and governmental approval would be uncertain, at best. 1/

**2. Relocation to the Proposed Transmitter Site Would Reduce Potential Interference.**

As previously demonstrated in Holdings' Supplement to Petition for Reconsideration ("Supplement"), filed in this proceeding on August 22, 1997, the scope of interference caused by WMTW's DTV operations would significantly decrease upon relocation of the Station's transmitter to the proposed site. According to a technical study completed in accordance with the methodology set out in OET Bulletin No. 69, and previously submitted to the Commission with the

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1/ It should be noted that Holdings' fuel storage facilities previously have been subject to U.S. Environmental Protection Agency scrutiny, due to concerns over a risk of oil discharge into the Peabody, Ellis or Ammonoosuc Rivers. Pursuant to the EPA proceedings, Holdings has been required to prepare and implement a Spill Prevention and Control and Countermeasure Plan for the facilities.

Supplement ("Engineering Statement"), the new site would reduce the total number of people receiving interference from WMTW's DTV operation by nearly 50,000. Moreover, operating the DTV channel at the pending application site is not expected to cause interference to any authorized NTSC station. This significant reduction in interference would allow the Station to provide more efficient service throughout southern Maine.

**B. Efficient Transition of WMTW to DTV Requires Timely Modification of the Transmitter Site.**

If the Commission and MSTV continue to ignore the proposed modification in the ultimate Table of Allotments, WMTW will be forced to build and operate the new DTV facilities on Mount Washington. Should the Commission subsequently approve Holdings' application to relocate the WMTW transmitter, the Station would then need to build an entirely new analog and, presumably, a new DTV transmitter site. Otherwise, WMTW would have to maintain split operations, which would be extremely costly for Holdings, assuming such operations would be even technically feasible. Moreover, the discrepancy in service provided by the two sites would disrupt the viewing patterns of WMTW's service area.

**II. BOTH THE COMMISSION AND MSTV WERE ON NOTICE THAT THE PROPOSED MODIFICATION SHOULD HAVE BEEN INCLUDED IN THE DTV TABLE.**

**A. WMTW's Minor Change Application Was Submitted Well Before the Commission's Table of Allotments Was Published or MSTV's Proposal Was Filed.**

WMTW's minor change application was submitted to the Commission on April 22, 1996. This was three months prior to the Commission's Sixth Further Notice of Proposed Rulemaking in this proceeding; it was nearly a year before the Commission's April 3, 1997 NTSC database, upon which the Commission's DTV Table of Allotments was based, was compiled; and it was one full year before the Sixth Report and Order, containing the Commission's Table of Allotments, was released.

MSTV likewise should have been aware of WMTW's proposed modification. WMTW's minor change application was filed more than 17 months before MSTV filed its Ex Parte Submission on November 20, 1997. Moreover, on June 13, 1997, WMTW filed a Petition for Reconsideration in this proceeding, which focused on the Commission's failure to incorporate the proposed modification in the DTV Table of Allotments. Two months later, on August 22, 1997, WMTW filed its Supplement, which also addressed this issue. Nonetheless, MSTV did not include the modification in its proposal.

**B. Making the Requested Change Would Not Disrupt the DTV Table.**

The implementation of the modification would not significantly disrupt the allotments made in the Commission's Table of Allotments. As noted above, the new transmitter site would reduce the population expected to receive interference from WMTW's DTV operations by nearly 50,000 people and would cause no interference to any authorized NTSC station. Thus, regardless of whether the Commission maintains its existing DTV Table of Allotments or partially or entirely adopts MSTV's alternate proposal, there is no substantial disadvantage to including WMTW's modification in the DTV Table.

**III. CONCLUSION**

In light of the above, we respectfully urge the Commission and MSTV to include in their DTV Table of Allotments the WMTW modification, which was timely filed, has been pending for 20 months, and is unopposed. Significant environmental and public interest factors weigh heavily in favor of moving the transmitter site from Mount Washington to the North Latitude 43°-50'-33" and West Longitude 70°-45'-22" location. The new site would provide better service, with less interference, to more viewers. Taking the modification into consideration now would ensure that WMTW's transition to DTV will be more efficient and less burdensome for Holdings and WMTW's entire service area. The proposed modification would neither impose additional costs on, nor render any known disadvantages to, the community or other broadcasters, while the feasibility of



constructing a DTV facility at the current Mount Washington site is questionable, at best. Thus, in order to further the recognized public interest in continuous, quality service and an efficient transition to DTV, the Commission and MSTV should promptly modify the Table to include the proposed change to WMTW's transmitter site.

Respectfully submitted,

**WMTW HOLDINGS, INC.**

By: Phoebe L. Yang

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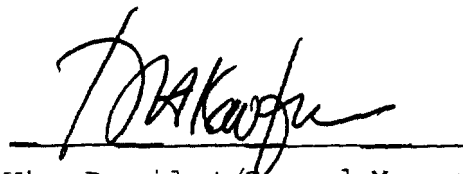
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Its Attorneys

December 17, 1997

### DECLARATION

I, Dave Kaufman, hereby declare that the facts set forth in the foregoing Comments are true and correct to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to read "D. Kaufman", is written over a horizontal line.

Vice President/General Manager

WMTW-TV

December 16, 1997